



State of New Jersey

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The following Decision is distributed for your information. This Decision has been made in consideration of the specific facts of this case. This Decision is not to be interpreted as establishing any new mandatory policy or procedure otherwise officially promulgated.

STATE OF NEW JERSEY  
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 21-040186 C.A.

AGENCY DKT. NO. C029393015 (OCEAN COUNTY BOARD OF SOC. SVCS.)

On January 12, 2021, the Division of Family Development, Bureau of Administrative Review and Appeals ("BARA"), received Petitioner's request for an Administrative Review. Petitioner contests the correctness of the Respondent Agency's ("Agency") interception and application of her adult child's Federal Income Tax refund to an outstanding debt that she owed to the Agency. Petitioner contends that her debt was neither past due nor legally enforceable, and therefore should not have been referred for collection.

As Assistant Commissioner, Division of Family Development ("DFD"), Department of Human Services, I have reviewed this matter, and hereby AFFIRM the Agency's action.

As it relates to the Supplemental Nutrition Assistance Program ("SNAP"), "a household is composed of a group of individuals living together for whom food is purchased in common, and for whom meals are prepared together for home consumption." See N.J.A.C. 10:87-2.2(a)(3). Nonhousehold member status or separate household status shall not be granted to parents and their biological children under the age of 22 who reside together. See N.J.A.C. 10:87-2.2(c)(1)(emphasis added). In addition, "[a]n individual between the ages of 18 and 22 is considered an adult and can be a separate household from those with whom he or she lives if he or she purchases and prepares food separately." See N.J.A.C. 10:87-2.2(c)(2)(i).

Pursuant to applicable regulatory authority, a recipient claim is an amount owed because of benefits that were overpaid. See N.J.A.C. 10:87-11.20(a). Further, each person who was an adult member of the household when an overpayment had occurred, is responsible for paying the claim. See N.J.A.C. 10:87-11.20(d)(1), and 7 U.S.C. 2011 et seq. ("Food and Nutrition Act of 2008").

Additionally, "[a] 60-day notice will be generated advising the client that if she does not contact the [Agency] for payment of the claim by the end of the 60-day period, the claim shall be referred to [the Treasury Offset Program ("TOP").]" See N.J.A.C. 10:87-11.21(a)(1)(iii).



On February 16, 2021, BARA requested that Petitioner provide information necessary to complete an Administrative Review. Thereafter, on February 23, 2021, via electronic mail, BARA requested that the Agency provide information necessary to complete an Administrative Review. The Agency responded on February 24, 2021. On March 30, 2021, Petitioner provided documents responsive to BARA's February 16, 2021, request for same. Petitioner's documents submitted on March 30, 2021, together with the Agency's documents submitted on February 24, 2021, comprise the record for this Administrative Review.

It bears noting that on March 2, 2020, Petitioner contacted BARA to request a Fair Hearing, based on a January 1, 2016, adverse action notice issued by the Agency. On March 9, 2020, BARA denied Petitioner's request for a Fair Hearing, as the request was made outside of the 90-day period to request a Fair Hearing. See N.J.A.C. 10:87-8.5. Petitioner's March 2, 2020, request for a Fair Hearing, and BARA's March 9, 2020, denial of same, have no bearing on the instant matter, specifically, as to whether Petitioner's obligations were past due and legally enforceable.

Based upon an independent review of the record, I find the following facts. On September 27, 2012, Petitioner applied for SNAP benefits for a household of two persons, comprising herself, and her then 20-year old son, K.A. On January 15, 2013, Petitioner submitted an Interim Reporting Form ("IRF"), also indicating a two-person household, with no change to the amount of total household gross income. Later, the Agency became aware that K.A. was employed. In April, 2014, the Agency confirmed that K.A. had earned income beginning February, 2013, through October, 2013. The Agency then determined that K.A.'s unreported earned income, when combined with Petitioner's reported earned income, would have caused the total household gross income to exceed the maximum level allowable for receipt of SNAP benefits, therefore making Petitioner's household ineligible for SNAP benefits. See N.J.A.C. 10:87-5.1(a), -12.4.

On March 25, 2019, the Agency notified Petitioner that because she did not report K.A.'s earnings, she received an overissuance of \$1,526.01 in SNAP benefits, for the period beginning May, 2013, through October, 2013, which must be repaid. Petitioner did acknowledge receipt of the Agency's March 25, 2019, notice. On April 10, 2019, in a letter following up on Petitioner's telephone call to the Agency questioning the overpayment, the Agency confirmed the overpayment amount, and further advised Petitioner that if she fails to make suitable payment arrangements, the overpayment amount will be submitted to the Set Off Individual Liability ("SOIL") program and/or the Federal Treasury Offset ("TOP") program, which may intercept her NJ or Federal Tax refund ("SOIL Letter"). Further, I hereby take official notice that the records of this office reflect that on September 11, 2019, Petitioner was also issued a notice advising her that the overissuance claim was delinquent as of April 24, 2019, and that if she did not contact the Agency regarding payment of the claim within 60 days of the date of the notice, the claim would be referred to TOP for collection ("60-day Notice"). See N.J.A.C. 1:1-15.2(a) and N.J.R.E. 201(b) (4); see also N.J.A.C. 10:87-11.21(a)(iii). The record is devoid of any indication that Petitioner contacted the Agency in response to the SOIL letter, or within 60 days of the 60-day Notice. I further take official notice that the records of this office also show that, when Petitioner did not respond to the 60-day Notice, on November 13, 2019, Petitioner's claim was certified to TOP for collection. Ibid. Finally, I also take official notice that the records of this office show that, as a result of Petitioner's claim being certified to TOP, on February 12, 2020, K.A.'s Federal Income Tax refund was intercepted, and thereafter, applied to Petitioner's total outstanding balance.

Based on the foregoing facts, I find and conclude that Petitioner failed to contact the Agency to make any suitable arrangements to repay the overissuance, thereby causing the outstanding claim for overissued SNAP benefits to become past due and legally enforceable, and referred to SOIL and TOP for further collection action. Moreover, I find that K.A. was an adult member of Petitioner's household at the time of her initial application for SNAP benefits, and therefore, is also responsible for payment of the claim, pursuant to regulatory authority. See N.J.A.C. 10:87-11.20(d)(1). Accordingly, I find that the



Agency's interception of K.A.'s Federal Income Tax refund and application of same to the total combined outstanding claim was appropriate, and I hereby AFFIRM that action.

Accordingly, as Petitioner's outstanding debt owed to the Agency was past due and legally enforceable, the Agency's action in this matter is hereby AFFIRMED.

Officially approved final version.

MAY 27 2021

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Natasha Johnson  
Assistant Commissioner

